

**BILL ANALYSIS****RESOURCES AGENCY**

DEPARTMENT California Coastal Commission	AUTHOR McPherson	BILL NUMBER SB 243
SPONSORED BY McPherson	RELATED BILLS	DATE LAST AMENDED 5/19/99
SUBJECT Recreational Property: Attorney's Fees		

**SUMMARY**

SB 243 would require funds, generated by coastal development permit application fees and expended by the Coastal Conservancy for the development and maintenance of coastal public access, to be continuously appropriated, instead of annually, under the Budget Act.

**The Commission voted to support SB 243 on March 10, 1999.**

**ANALYSIS**

**Existing Law:** The California Coastal Act of 1976 authorizes the California Coastal Commission to require a reasonable filing fee for the processing of any application for a coastal development permit. SB 72 (McPherson) (Chapter 782, 1997) created the Coastal Access Account in the State Coastal Conservancy Fund and required that coastal development permit fees collected by the Commission be deposited in the fund.

The money in the account, between \$500,000 and \$600,000, is made available, upon annual appropriation by the Legislature to the State Coastal Conservancy, for grants to public agencies and private nonprofit entities for the development, maintenance, and operation of new or existing facilities that provide public access to the shoreline of the sea.

**Changes Proposed by this Bill:** This bill would require that moneys in the Coastal Access Account be continuously appropriated without regard to fiscal year.

The Commission's regulatory authority or permit fees would not be affected by this bill.

**Discussion:** As a condition to coastal development permits, the Commission has, in appropriate circumstances, required project applicants to record an Offer to Dedicate (OTD), a public access easement over their property, as mitigation for the adverse impacts of new development on access to the coast. OTDs remain offers only until either a public agency or a private nonprofit entity acceptable to the Commission agrees to operate and maintain the accessway. In most cases, OTDs are valid for 21 years, at which time they expire if they have not been exercised. Over 1,200 OTDs have been recorded since the enactment of the Coastal Act, but only a small percentage of these have been opened to the public.

**DEPARTMENTS THAT MAY BE AFFECTED**

California Coastal Commission

STATE MANDATE ☐GOVERNOR'S APPOINTMENT ☐**DEPARTMENT DIRECTOR**

☒ S ☐ O  
☐ SA ☐ OUA  
☐ N ☐ NP  
☐ NA ☐ NAR  
☐ DEFER TO \_\_\_\_\_

**AGENCY SECRETARY POSITION**

☐ S ☐ O  
☐ SA ☐ OUA  
☐ N ☐ NP  
☐ NA ☐ NAR  
☐ DEFER TO \_\_\_\_\_

**GOVERNOR'S OFFICE USE**

Position approved..... ☐  
Position disapproved ..... ☐  
Position Noted ..... ☐

DEPARTMENT DIRECTOR

AGENCY SECRETARY

BY

DATE

The Conservancy has the authority to enter into long-term agreements with nonprofit organizations and local governments for the development, maintenance, or operation of coastal accessways. However, annual appropriations through the Budget Act do not give sufficient certainty to potential operators of accessways that adequate funds will be available for the operation and maintenance of accessways. Current law mandates that such an appropriation, unlike previously available bond act funds, must be encumbered within a year, and expended within three years. Consequently, there is no guarantee that funds will be made available by the Legislature for these purposes in years subsequent to the initial appropriation. This uncertainty has caused nonprofit organizations and local governments to hesitate to enter into contracts with the Conservancy to accept OTDs, and then to open and operate public accessways.

According to the Conservancy, a continuous appropriation would provide the assurances needed by nonprofits and local governments to accept the responsibility of maintaining and operating accessways. Most importantly, a streamlined and relatively secure funding source will speed the opening of new coastal accessways for public use.

NOTE: Staff is working with the author to develop amendments to incorporate into this bill two additional access related provisions that the Commission endorsed at its January meeting: (1) Amend the Civil Code to require the State Board of Control to allow a claim for reasonable attorney's fees incurred by a nonprofit organization or local government in a successful defense of civil actions brought by a person or organization seeking to restrict, prevent, or delay the opening of a public accessway. (AB 93, vetoed by Governor). (2) Require the Attorney General to represent the Coastal Conservancy in litigation that involves a dispute concerning the protection or provision of public access to, or along, the coast. (AB 93, vetoed by Governor).

### **FISCAL IMPACT**

This bill would have no fiscal impact on the Commission.

### **POSITION**

**The Commission voted to support SB 243 on March 10, 1999.**

For more information contact Jeff Stump, Legislative Coordinator, at (415) 904-5266.